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REMARKS:

Claims 8-29 and 44 currently are pending.

The Examiner has rejected claims 8-10, 16, 18, 22, 24, 28, and 44 under 35 U.S.C. 103(a) as being unpatentable over Meilahn (U.S. Patent No. 5,762,024) in view of *The Application of Deep Sea Water in Japan* by Takuma Nakasone and Sadamitsu Akeda (the "Nakasone et al. Reference"). Moreover, all remaining claims were rejected under 35 U.S.C. 103(a) as being unpatentable over Meilahn in view of the Nakasone et al. Reference and further in view of either: Mougin (U.S. Patent No. 4,166,363) (claims 11-13); O'Hare (U.S. Patent No. 5,669,330) (claim 14); Mougin and O'Hare (claims 15, 17, and 19); Puncochar (U.S. Patent No. 3,571,819)(claim 20); Mougin, O'Hare, and Puncochar (claims 21,23, and 25); Atwell (U.S. Patent No. 4,536,257)(claim 26); or Mougin, O'Hare, Puncochar, and Atwell (claims 27 and 29).

In response, the applicant respectfully submits that the Nakasone et al. Reference was not published until after the priority claim filing date of the present application, and, therefore, cannot properly be applied as prior art in this case.

In the Notice of References Cited (PTO-892), the Examiner lists the Nakasone et al. Reference as "undated." Indeed, a review of the Nakasone et al. Reference document reveals that no publication date is given. Accordingly, the applicant's attorney inquired with the Reference

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Librarian for the U.S. National Oceanic and Atmospheric Administration (the organization that administers the U.S.-Japan Cooperative Program in Natural Resources or UJNR, which is the organization from which this publication originated). In reply, the Reference Librarian stated that the Nakasone et al. Reference was published as a part of UJNR Technical Report No. 28 in December of 2000 (see attached correspondence, Exhibit 1).

Thus, the Nakasone et al. Reference was not published until after the applicant's August 21, 2000 priority date. As a result, this reference cannot be used to render the applicant's invention obvious because it does not qualify as prior art under any provision of 35 U.S.C. §102. See *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593, 1597 (Fed. Cir., 1997)("Before answering *Graham's* 'content' inquiry, it must be known whether a patent or publication is in the prior art under 35 U.S.C. §102").

The Examiner mentioned on page 4 of the Office Action that the Nakasone et al. Reference "discloses the establishment of deep-sea water pumping systems in Kochi Prefecture in 1989...." To the extent that the Examiner may mean for this statement to constitute a prior art reference, the applicant respectfully submits that any disclosure found in Nakasone et al. relating to "public knowledge" or use of deep-sea water pumping systems in the Kochi Prefecture in 1989 does not properly constitute prior art as defined under 35 U.S.C. §102 (in particular 35 U.S.C. §102(a)) because such knowledge or use took place outside of the United States. Therefore, the Nakasone et al. Reference and any information therein still does not qualify as prior art in this case.

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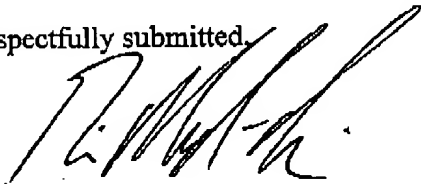
By itself or in combination with any of the remaining references, Meilahn teaches only a swimming pool upon the sea that utilizes sea water. There is no suggestion or motivation whatsoever to supply deep-sea water as claimed in the present invention.

Since independent claims 1, 6, 8, 12, and 16 are distinguishable from Meilahn based on the deep-sea water limitation, all dependent claims would also be so distinguished. Thus, all rejections made under 35 U.S.C. 103(a) are believed to have been obviated.

In view of the foregoing, the applicant respectfully requests that this case be advanced to allowance.

No fee is believed to be due with this amendment. Should there be any unforeseen costs, please charge our Deposit Account No. 170055.

Respectfully submitted,



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